

ADVISORY OPINION 91-13 [1991-5]

The Ethics Commission has reviewed your request for advice dated March 27, 1991. This request was submitted jointly by the head of an Executive Branch department and a Division Chief of that department. The Division Chief has indicated a desire to enter into a contract for architectural and construction management services to build a house the Division Chief intends to use as a personal residence. The Division Chief intends to contract with a firm that does business from time to time with the Department.

The Ethics Commission has reviewed Article III of the Montgomery County Public Ethics Law which sets out rules of conduct for public employees. The Commission concluded that the Ethics Law does not prohibit the Division Chief from entering into a contract with an entity that is doing business with the Chief's department.

The Commission, however, would like to bring to your attention Section 19A-11(a)(2)(E). That section provides that if a public employee's contract with a specific business could result in a conflict between private interests and public duties, the employee may not participate, as a public employee, in a matter that involves that business. The Commission has concluded that the type of contract described in the request for advice would result in a conflict under 19A-11(a)(2)(E). Accordingly, the Division Chief should not participate in any matter, as a public employee, that involves as a party the business that is providing architectural and construction management services to the Chief, unless a waiver is first obtained from the Ethics Commission.

The Commission trusts that this advice has been responsive to your inquiry. If you have any further questions, please do not hesitate to contact the Ethics Commission.

Date of Issue: May 15, 1991